IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 337 of 2000

CRA.360/1995 of V ADDL.SESSIONS COURT, ERNAKULAM
ST.882/1992 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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REVN. PETITIONER:

SHAJU AUGUSTINE
PARAKKATTIL HOUSE
KIDANGOOR P.O.
ANGAMALY

BY ADV. SRI.SANTHOSH SUBRAMANIAN

RESPONDENTS:

1. FOOD INSPECTOR
   ANGAMALY CIRCLE
   ANGAMALY

2. STATE OF KERALA
   REPRESENTED BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA
   ERNAKULAM

BY PUBLIC PROSECUTORSRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON 29/11/2007 PASSED THE FOLLOWING:

A.K.BASHEER, J.

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Crl.R.P.No.337 OF 2000

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Dated this the 29th day of November 2007

ORDER

Petitioner who has been concurrently found guilty by the trial court and the appellate court under Section 2 (ia) (a) (b) (c) and Section 7(1) readwith Section 16(1) (a) (ii) of the Prevention of Food Adulteration Act has preferred this revision petition challenging the order of conviction and sentence passed against him.

2. The prosecution case in brief was that PW3, the Food Inspector, had purchased 600 gms. (six packets of 100 gms each) of turmeric powder from the grocery shop belonging to the petitioner in Thuravoor Panchayat for the purpose of analysis on February 28, 1992 at 2 pm. He had purchased the article after serving Ext.P10 Form VI notice as provided under the Act and the Rules. The food article was divided into three samples and they were properly sealed. The independent witness who was available at the shop refused to sign the mahazar as an attestor. Therefore, the peon (PW4), who had

accompanied PW3, had signed in the mahazar as a witness. One part of the sample was forwarded to the Public Analyst along with Form VII memorandum. Public analyst issued Ext.P5 report with the opinion that sample contained not less than 25% of rice powder and therefore it was adulterated. The Central Food Laboratory on a further analysis had also certified that the sample did not conform to the standard prescribed for turmeric Powder under the Rules. The report of the Central Food Laboratory was produced and marked as Ext.P8 in the case. PW1, the Executive Officer of the local Panchayat had deposed before the court that the petitioner was the licensee/owner of the shop. PW2, the Local (Health) Authority had also deposed before court that he had forwarded the sample to the public analyst.

3. The trial court on an elaborate consideration of the oral and documentary evidence found that the petitioner was guilty of the offence alleged against him and he was accordingly convicted and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/-

and in default to undergo simple imprisonment for 1½ months. The above order of conviction and sentence was confirmed by the appellate court. The said order is under challenge in this revision petition.

Having carefully examined the oral and documentary evidence adduced by the prosecution in the case, I do not find any reason to interfere with the concurrent order under challenge. It is pertinent to note that the petitioner does not have a case that the Food Inspector who was examined as PW3 had not complied with the statutory mandates while purchasing the food article for the purpose of analysis. PW3 had strictly followed the procedure prescribed under the Act and the Rules in the matter of purchase of articles, sampling thereof and also forwarding the same to the analyst. No material illegality or irregularity in the above procedure has been pointed out. The public analyst had found that the food article was adulterated, since the sample did not conform to the standard prescribed in the Act and the Rules. Similarly, the analysis conducted at the Central Food Laboratory also

gave an identical opinion. PWs1, 2 and 4 had corroborated the prosecution case on all material aspects. The trial court as well as the appellate court had adverted to all the relevant aspects of the case meticulously. In the absence of any material illegality or irregularity in the orders, the concurrent findings entered by the courts below do not call for any interference. In my view, the courts below were justified in holding the petitioner guilty of the offences alleged against him. There is no merit in any of the contentions raised by the petitioner. Revision petition fails and it is accordingly dismissed.

(A.K.BASHEER, JUDGE)

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A.K.BASHEER, J.

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Crl.R.P.No.337 OF 2000
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ORDER

Dated 29th Nov. 2007